

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

April 12, 2011

In the Matter of PRIGGETT, Minors.

No. 300455

Bay Circuit Court

Family Division

LC No. 09-010346-NA

Before: O'CONNELL, P.J., and K. F. KELLY and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). Respondent asserts that the evidence failed to support the statutory grounds for termination and the trial court's finding that termination was in the children's best interests. We affirm.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). We review the trial court's determination for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003), citing *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). We must give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller*, 433 Mich at 337.

The condition that led to the children's adjudication was respondent's inability to effectively or safely parent the children. It was evident that respondent's parenting deficiencies were longstanding. She received numerous in-home services before the children's removal from her care, yet her parenting deficits persisted. The children were removed from respondent's care after her infant child, who was unable to gain weight in her care, was hospitalized two times in one month for failure to thrive. Significantly, once the infant child was outside of respondent's care, she immediately gained weight and, following the children's removal, they made significant gains both physically and emotionally.

Unfortunately, the record revealed that respondent was largely unable to demonstrate any significant improvement in her ability to provide proper care and custody for the children during the 16-month proceedings. MCL 712A.19b(3)(c)(i) and (g). Instead, the evidence clearly established that, despite services, respondent's parenting deficiencies remained prevalent during the visits with the children, to the point that the children would seek out nurturing from any worker in the building. On one occasion, when one of the children, who was then two years old, would not sit still, respondent grabbed the child's hair and called her "frickin' retarded."¹ Other times when the children were crying or fussy, she said; "Your crying really does not bother me, so, you know, keep it up," instead of addressing the issue with the child. Another time, when respondent was frustrated because the children, who both had colds, wanted to be held; respondent said, in front of the children; "Sometimes I wish I could just put their coats on 'em and send 'em right back home."

Respondent could not provide for the children emotionally and was also unable to maintain stability in housing. Respondent continued her unhealthy lifestyle by maintaining sexual relationships with numerous men, indeed, calling herself "sex addicted." She failed to adequately and consistently address her mental health issues with therapeutic and psychiatric services. Respondent's psychological evaluation concluded that a young child in respondent's care would be at a significant risk for medical and psychological problems and that respondent's "limitations, lack of motivation, and parental deficits" were "substantial and expected to remain long term." In sum, the evidence clearly shows that respondent's own challenges placed her children at a significant risk of emotional or physical harm.

Considering this evidence, we find no clear error in the trial court's findings that respondent remained unable to effectively or safely parent the children, the condition that led to their adjudication, MCL 712A.19b(3)(c)(i), and was unable to provide proper care and custody for the children, MCL 712A.19b(3)(g). *Trejo*, 464 Mich at 356-357. Her failure to improve her ability to parent the children during the 16-month proceedings, despite intensive instruction and assistance, also established that there was no reasonable likelihood that she would be able to address her issues to be able to safely and effectively parent and provide proper care and custody for the children within a reasonable time, if ever. MCL 712A.19b(3)(c)(i) and (g). The young children, who were almost two and three years old at the time of the termination hearing, had already been outside of respondent's care for a significant part of their lives, were thriving emotionally and physically outside of her care, and needed permanency and a stable, structured, nurturing, and consistent environment, which respondent clearly could not provide. It was also questionable whether respondent would make a meaningful effort toward reunification with the children if given more time to do so considering her failure to visit the children at all during the last two months of the proceedings and to consistently participate in therapeutic and psychiatric services during the proceedings. Under such circumstances, it would be unfair to delay the children's permanency any longer. Accordingly, we find no clear error in the trial court's

¹ Respondent contends that she referred to the situation as "frickin' retarded," not the child.

conclusion that termination was warranted under MCL 712A.19b(3)(c)(i) and (g). *Trejo*, 464 Mich at 356-357.

We likewise find no clear error in the trial court's determination that termination was warranted under MCL 712A.19b(3)(j). *Trejo*, 464 Mich at 356-357. Considering respondent's conduct described above, we find that the children would clearly be at a risk of emotional and/or physical harm if they were returned to her home. MCL 712A.19b(3)(j).²

We also find no clear error in the court's determination that petitioner made reasonable efforts to reunify the family. *In re Terry*, 240 Mich App 22, 26; 610 NW2d 563 (2000). Our review of the record indicates that petitioner accounted for and reasonably accommodated respondent's mental disabilities by tailoring services to support her limitations. See *Terry*, 240 Mich App 25-26. Testimony indicated that, during the proceedings, petitioner provided respondent with hands-on, one-to-one, parenting instruction as indicated by her psychological evaluation, individual counseling as recommended by the psychological evaluation, two psychological evaluations (the second evaluation was for the purpose of ascertaining whether she qualified for additional developmental disability services), a parenting aide who attempted to assist her with obtaining housing, and a nutritionist. Before the children's removal, petitioner also provided respondent with numerous in-home services that provided hands-on instruction. It is evident from the testimony that the caseworker and the service providers were aware of respondent's mental disabilities and/or tailored their instruction to account for her limitations by using verbal repetitive and hands-on instruction, modeling and/or demonstrative techniques, and recognizing that she would learn at a slower pace.

Finally, considering respondent's evident lack of ability to provide adequate, safe, and proper care and custody for the children, we fail to find clear error in the trial court's determination that termination of her parental rights was in the children's best interests. MCL 712A.19b(5); *Trejo*, 462 Mich at 356-357. Therefore, termination of respondent's parental rights was appropriate.

² We disagree with respondent's contention that her compliance with the requirements of her Parent-Agency Agreement evidenced an ability to provide proper care and custody. Although the record indicates that she initially complied with her Parent-Agency Agreement, she eventually stopped visiting the children, failed to attend counseling on a consistent basis and eventually stopped attending psychiatric services altogether, was not in compliance with her psychiatric medication reviews, and, at the time of the termination hearing, was being evicted from her housing for the second time during the proceedings. Further, the testimony clearly indicated that respondent failed to demonstrate a benefit from services and remained unable to provide proper care and custody for the children by the time of the termination hearing. MCL 712A.19b(3)(g).

Affirmed.

/s/ Peter D. O'Connell

/s/ Kristen Frank Kelly

/s/ Amy Ronayne Krause